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The Search For Media Ethics*

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SNAKES AND LADDERS

No ethical standards are built into the mass media. The ethics of each responsible communicator contribute to the making of professional codes of conduct to which most media people can subscribe. All professional codes are essentially moral guides to help those who seek solutions to perplexing problems that constantly arise. No statement of professional ethics is aimed at a particular circumstance or chain of reports about any one situation. On the contrary, all constructive codes are useful because they consist of practical, general rules that can be transgressed only at the greatest personal and public risk. The individual communicator always has to face up to the ethical imperatives in deciding how to deal with a detail or a whole story. No formulation of collective wisdom substitutes for the individual searching into his own conscience.

Ethics, so far as mass media professionals are concerned, are anything but abstract. The generalities of the codes do not encompass worries about how many angels can dance on the head of a pin. They deal with the amount of pain that a communications pinprick or hammerblow can inflict, the value of stinging some official of a private or public institution into necessary action.

A publisher can get down to ethical basics merely by looking at the employment data of the newspaper to ascertain how many minority group members are on a staff. Blacks have been frustrated by the inappropriate, inadequate, or nonexistent coverage of their interests by most metropolitan newspapers. So long as that community (or any other) depends upon a white-dominated press—upon a press guilty of the most flagrant avoidance of its responsibilities to train and to hire blacks, Mexican-Americans,

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American Indians, and other minority representatives—its news and its hopes will be buried. Such a deliberate neglect of professional obligations to serve all the public must lie heavy on the head of any publisher who finds the paper's employment data contrary to the general good.

An owner or manager of a television station knows whether he has made only token response to the democratic goals of fair opportunity and employment. If minority persons are placed on camera as readers ("anchorpersons") and have no editorial say or chances to exercise reportorial initiatives, that constitutes tokenism verging on fraud.

A 1977 survey showed that 2.5 percent of the nation's 40,000 newsroom employees were black, up from the estimated 1 percent in 1972. Only about 2 percent of news executives are drawn from minority groups.¹

Roger Wilkins, the sagacious and seasoned *New York Times* reporter, attended a television conference of outstanding black journalists in December 1977, almost ten years after the Kerner Commission (National Commission on Civil Disorders) reported to President Johnson that two separate Americas were developing rapidly. A decade after that group urged that more blacks be employed by the news media, the newsrooms were still virtually white havens. Wilkins noted on the show "Black Perspectives on the News" that the leading black journalists compared their situation with Jackie Robinson's entry into major league baseball in 1947.² Thirty years after the first black participation in the big leagues; thirty years after Hutchins' Commission (Commission on the Freedom of the Press) called for new training programs; twenty years after Congress created the United States Commission on Civil Rights as a clearinghouse for information; almost ten years after the Kerner Commission's report, some of the most prestigious black journalists in the nation were still waiting for the color bar to be smashed completely and were drawing new strength from Jackie Robinson's experiences. That is as good, or bad, a commentary on the situation as any.

The Freedom House Coalition, a social service agency association, blasted the metropolitan Boston news media in its May 1977 review

1. See Dierdre Carmody, "News of Minorities In Media Is Debated," *The New York Times*, September 26, 1977.

2. See Roger Wilkins, "Lessons From the Black Experience in America," *The New York Times*, December 26, 1977.

of the background to three years of school desegregation. "We have concluded that each of you have conspired against the black community (some individually, others collectively). . . In so doing you have made us the victim, the villain." One of the charges in the four-page statement was that the media did not report that the Boston School Committee "willingly and intentionally" discriminated against the black community in the course of its allegedly "balanced reporting."³

The ethics of covering women's activities as if nearly all stories must contain some bizarre details is deplorable. Many stories of the struggles over the Equal Rights Amendment contain camouflaged facts.

With alarming regularity, the scandals involving nursing homes that mistreat the enfeebled aged, usually for considerable financial rewards to the proprietors, are grist for a sensation-seeking press corps. The headlines and stories satisfy a small coterie of reporters and publishers who know how easily the public is beguiled into thinking that a favorite newspaper is committed to "investigative reporting." The majority of media professionals recognize the needs to do less boasting and more in-depth work that brings the facts out *before* the inmates of mismanaged nursing homes are victimized. Reportage that could reduce the number of these scandals that the public reads about with almost clockwork regularity would reflect well upon the ethics of the Fourth Estate.

Other ethical problems are less dramatic although no less important. For example, the coverage of inner-city subjects is becoming less and less interesting to suburbanites, most of whom left to escape urban crime, disorder, and dilapidation. Most suburbanite job holders continue to work in the cities, and virtually all depend upon the commerce and industry of the cities. For news of the suburbs a great many turn to local newspapers that cater to their desires to escape minority problems, deterioration of urban neighborhoods, urban school health, police and welfare problems, and big-city financial crisis. A substantial number of the suburban "newspapers" have become merely blown-up real estate and general advertising sheets. News is almost a frivolous byproduct of the local concentration on weddings, confirmations, and how much inflation has

3. See "Blacks Blast Hub News Media on Coverage," *Boston Evening Globe*, May 25, 1977. Also, for Hutchins Commission evaluation, see Bernard Rubin, *Media, Politics and Democracy* (New York: Oxford University Press, 1977), pp. 66-69.

changed the values of homes. Big-city newspapers, which do not emphasize selfish localism or inflate the egos of the readers, are finding it increasingly difficult to compete with these suburban papers. So they fight back by giving up and devoting more staff time and column space to pleasing material for suburbanites. Thus the already deplorable lines of communication between the inner-city residents and the suburbanites are further weakened. Inexorably, news media pandering to marketplace-produced schizophrenia further separates the haves from the have-nots.

Meeting the desires of suburbanites, who are mainly white and middle-class, the electronic and print media pay a price. The wiser newspeople know that distinctions and divisions between communities are not healthy for a democracy; that the problems of the inner cities are biologically connected to the suburbs; that the viruses of decay, of crime, of repressed anger, which build into revolt, cannot be contained—the symptoms and the sicknesses can appear anywhere. Watching how competition corrupts the news-delivery processes, media people are vexed.

There is even wider agreement on the importance of adequate coverage of overseas news. Yet most Third World problems are invisible today. Poorly covered are sub-Saharan starvation; massacres in Bangladesh; the plights of refugee “boat people” in Southeast Asia; the struggles for freedom by blacks throughout Africa. There are hardly any black correspondents assigned overseas by radio, television, or print media. Most of the major news organizations have no resident correspondents based in important Third World countries. Africa and Asia, in particular, are deemed to be primarily feature-material areas. When a story arises in a particular place, “stringers” are relied on until an experienced reporter can be flown in. As long as the story lasts, and it usually has to be either highly dramatic or terribly catastrophic, the work is forwarded to home offices. An experienced reporter who has spent years in a huge nation can do a better job than the itinerant journalist who dashes from here to there; yet news organizations in New York have reporters based permanently in Chicago, but not in Asia or Africa. Inevitably—necessity being the mother of invention—concoction must occur when one culture seizes from another whatever it can get under the circumstances. If the American press has not yet handled the subject of race relations competently at home, what are we to imagine of its coverage of a racial clash in Vietnam or Malaysia? But the financial support necessary for even minimal overseas coverage is more than the great media organizations care to bear. The

ethical consequences of current practices are of even less interest to non-news and editorial people in the comptrollers' offices than to editors and publishers.

STANDARDIZING ETHICS

Worried about improprieties that have become too identified with the profession, many media people have become convinced of the necessity for written codes of standards. It is agreed that honesty is essential; yet even honesty is subject to interpretation, if special circumstances warrant. For example, is "checkbook journalism" honest? Should the enormously profitable television networks allow reporters to pay people in order to get stories?

The debate as to whether employers, fellow employees, or members of the public have a right to know whether a reporter is or ever has been connected with the Central Intelligence Agency while ostensibly working full-time for a news organization has been going on for some time. Some publishers, radio and television executives, politicians, and private citizens consider such a liaison status so patriotic that they believe the identity of newspeople so engaged should be secret. Others of equally high standing take the position that failures to disclose that information constitute dishonesty in a society with a free press.

Having played devil's advocate with the foregoing examples, the author honestly admits a personal distaste for the infiltration of the press by government agencies acting covertly. For more than three decades such behind the screens C.I.A. connections with college and university professors, who recruited for the Agency and provided reports on campus activities of dissidents, have sullied the academic environment. An American campus is a very fragile place. So long as it is free it grows stronger and more responsible. Impose clandestine controls that impede free thought and research only at the risk of seeing the domestic college and university scene take on the colorations of institutions in authoritarian societies. It is said that few if any college and university presidents want to know the names of C.I.A. linked professors on their campuses. Knowledge requires some form of response, be it support or rejection of those concerned.

Is it any less honest for a university teacher to fail to notify his dean or president that he is working secretly for the government, that it is for a working reporter to so report to his editor, station manager and colleagues? Is it honest for a college president or a publisher to want to learn nothing in order to be free to do nothing?

Is it ethical or honest for a teacher to keep students and colleagues in the dark about such a liaison at the same time he poses as a researcher bound only to his search for truth?

Unfortunately, the word *honesty* in the codes of ethics is often constricted to use in connection with acceptance of favors or money. The professional need to keep *honesty* and *integrity* synonymous is too often overlooked.

Let us consider codes handed down from employers or professional associations.

The News-Journal Approach

The executive editor and vice president of the News-Journal Company (Wilmington, Delaware), Mr. Frederick W. Hartmann, decries journalistic hypocrisies. He wrote the author alluding to types of newsmen who overlook or condone ethical mischief. "While the editor-in-chief attends a conference that deals with lofty and ethical ideals, his travel writer is off on a freebie junket to southern France and his theatre reviewer is accepting free tickets to the Broadway play that has come to town."⁴ Hartmann's newspapers have a policy about professionalism and ethics, first promulgated in 1971 and revised twice, with the latest version published in 1977. It applies to all news and editorial department employees.

A key feature is the emphasis upon "individual judgment and integrity" held to be "keystones . . . because it would be impossible to spell out every single question that might arise." Another is the insistence that "our management and employees must remain free of obligation to any special interests. This means avoiding all possible conflicts of interest or the appearance thereof."

To keep the newspeople free of taint, the code forbids acceptance of favors and favoritism. Employees are forbidden to accept "gifts of money or items of value." Anything worth more than a few dollars is covered. "Free admissions to any event that is not free to the public are prohibited. If the public pays, the News-Journal pays. Whenever possible, arrangements will be made to pay for the use of press boxes or press rooms and for the admission of photographers."

News-Journal news and editorial employees are forbidden to work for a rival news organization, print or electronic, in the company's

4. Letter to the author from Frederick W. Hartmann, executive editor and vice-president, the News-Journal Company of Wilmington, Delaware, dated November 11, 1977.

circulation area; "do public relations, writing, photography or similar work for any organization that comes within the normal range of News-Journal coverage"; be in policy-making positions in "major outside organizations," including state or local school boards, symphony orchestra board, medical center board, and so on, if they "fall in the normal range of News-Journal coverage"; participate in public demonstrations in the News-Journal coverage area; "work for a political party or candidate" or a governmental agency," because politics and government are of "prime news interest and are woven through almost all areas of coverage."

The basic premise behind the strictures that prohibit participation by the employees can be summed up in the policy contention, "People who report the news should not be involved in making that news."⁵

The insistence upon journalistic independence is laudable, but extensions of that insistence into the areas of politics and community work, denying newspeople opportunities to carry on citizenship activities, may be going too far in the name of objectivity. The music editor might find it difficult to criticize the Delaware Symphony if serving on its board. A specialist on medical stories may not find it appropriate to serve on the board of the Wilmington Medical Center. The publication of such affiliations, however, might suffice to alert the readership about possible bias when a story about a specific organization appeared. It is possible that such inflexible, broad prohibitions about civic-related memberships may do more to stymie the socially responsible members of the staff than to prevent those who are determined to be slanted in their coverage. The basic rights and interests of the individual citizen should not be sacrificed to blanket prohibitions.

Still, the News-Journal code of ethics is a step in the right direction. It shows how much depends upon individual integrity, for all the legislated prohibitions. It strikes the right note when it demands that every member of the news and editorial staff be independent and conscious of maintaining public trust.

More Ethical Dilemmas

The individual reporter's independence is the key to ethical work.

5. See Frederick W. Hartmann, "Trail Blazing toward Trust," *Sunday News-Journal*, Wilmington, Delaware, October 30, 1977, p. 19. Also, on the same page, see "The 'Ethics Code,'" printed in full.

The selfsame independence that turns the low-minded or weak-willed to unethical behavior permits the great majority of reporters to attain professional excellence. That excellence includes high ethical standards, *selfimposed* by each individual.

Many journalistic leaders consider all written restrictions undesirable. For example, Robert Manning, the editor-in-chief of *The Atlantic Monthly*, looks to other means.

I think that journalism should resist all written or codified restrictions, employ its own self-policing mechanisms, among them the reasonable cautions imposed by the knowledge that if one goes "too far" he must take the consequences imposed by (1) the courts and (2) the willingness of readers or listeners to continue patronizing the medium involved. I personally would refrain in my journal from the excesses indulged in before and during the Sam Sheppard trial, but I would resist attempts by others to prohibit me from committing those excesses as a matter of course.⁶

Manning's reference to the Sheppard trial is extremely relevant. Dr. Sheppard stood trial in Ohio in 1954 on the charge of murdering his wife. Many reporters covering the trial produced chilling examples of unethical work for the sake of sensational reports about "Dr. Sam." Much of the racy commentary was *not* based on evidence heard by the jurors listening to sworn witnesses. Radio, television, and newspapers across the nation created their own images of "Dr. Sam"—images that titillated mass audiences and were often downright distortions. These circumstances led to the Supreme Court reversal of his conviction in 1966. Mr. Justice Clark said the original trial judge had failed to protect Sheppard's right to a fair trial: "The fact is that bedlam reigned at the courthouse during the trial and newsmen took over practically the entire courtroom, hounding most of the participants at the trial, especially Sheppard. . . . Having assigned almost all of the available seats in the courtroom to the news media, the judge lost his ability to supervise the environment." The sensationalist press concentrated on lurid material extraneous to the evidence and often without foundation. Clark cites stories alleging that Sheppard "must be guilty since he had hired a prominent criminal lawyer; that Sheppard was a perjurer; that he had sexual relations with numerous women. . . ." Some of this "deluge of publicity reached at least some of the jury."⁷

6. Letter to the author from Robert Manning, editor-in-chief, *The Atlantic Monthly*, in response to his inquiry regarding issues of priority standing to be researched by the Institute for Democratic Communication of Boston University, dated, May 5, 1976.

7. See *Sheppard v. Maxwell*, Supreme Court of the United States, 1966. 384 U.S. 333, 86

No matter how much we sympathize with Manning's views, there is an obvious need to take every step possible to discourage replays of the distressing Sheppard trial. In 1977 the search for the "Son of Sam" killer of young people in New York City gave one segment of the press an opportunity to discard most ethical standards in order to attract circulation. The accused, one David Berkowitz, was the center of circus-like coverage by press organizations across the United States. A long police search for a culprit, pent-up public fears, and the disturbed character of the accused, offered irresponsible press chieftains a great way to sell newspapers. Rupert Murdoch, the Australian press magnate who had recently bought the *New York Post* and altered its format, went all out with multipage sensational coverage. At a magazine publisher's conference in Los Angeles in late 1977, Murdoch, who also publishes *New West* magazine, was asked if his coverage gave credence to the proposition that Berkowitz had been convicted by the press. He said, "Yes, and that's bad." He said he was partly to blame, along with the mayor and police commissioner of New York City, for the "communal hysteria." Murdoch declared, "If you lived in New York, where there was this tremendous interest in the case, there was nothing else to do but write about it."

The extremely colorful and sometimes lurid *Post* coverage wasn't unique, unfortunately. Despite the ethical importance of avoiding statements that suggest confessions in this type of case especially, the temptations appear to have been too much for many editors and reporters. Examples of headlines: "Son of Sam Had Planned Blood-bath" (*Atlanta Constitution*, August 12, 1977); "A Paunchy Loner Confesses to Being Son of Sam Killer" (*Miami Herald*, August 12, 1977).

Television reports of the developments in the case were sometimes equally offensive. Geraldo Rivera of ABC News used the words "fiend" and "murderer" to describe the suspect. *Time*, in its August 22, 1977 issue, used the headline, "After the capture the twisted killer's life unfolds." Writing for the professional journalists' magazine *Quill*, Jim Frisinger concluded a survey of press treatment of this case on a hopeful note. He commended the *San Francisco Chronicle* and the *Boston Globe* for providing accounts that did no damage to the right of the accused to a fair trial.⁸

S. Ct. 1507, 16 L. Ed. 2d 600.

8. See Jim Frisinger, "'Son of Sam'—David Berkowitz," *The Quill* 65 (November 1977): 15, 16, 30.

A vexing dilemma faced by honest newsmen involves the need both to protect individual privacy and to disseminate as much reliable information as possible. One situation that ended well shows the difficult choices that have to be made by ethical defenders of the public's right to know.

WABC-TV sent a camera team into Saint Michael's Home (Staten Island, New York City) in 1976 to interview adolescent wards of the state for a report about criminal abuse of children. After the filming an appeal was made to the Appellate Division of the State Supreme Court in Manhattan to stop the televising of the report in order to protect the privacy of the youngsters. Their names and their faces, it was argued, should not be specifically identified. That is an important protection for children since it was possible to indiscriminately disclose the identities of those already victimized by alleged criminal abuse. The court ruled against prior restraint in favor of First Amendment rights. However, the presiding judge, in a post-decision conference, urged broadcasters to devise a way to protect privacy. WABC-TV wisely altered the film so that the faces of the children were out of focus. Viewers were informed of this action.⁹

Another problem faced by media people anxious to maintain the highest ethical standards is that the codes drawn up by the leading professional associations tend to be so general that the room for interpretation necessity is enormous. The clearest provisions deal with gifts. For example, the standards of practice adopted by Sigma Delta Chi, The Society of Professional Journalists, in 1973, flatly states that "nothing of value should be accepted." Secondary employment and any political or community organizational work that "compromises integrity" should be avoided. Private sources should not be used as the basis for news unless the claims to news value of their communications can be substantiated. Journalists are advised to strive to make public records open to public inspection and to get as much public business conducted in public as possible. Also cited is the "newsman's ethic of protecting confidential sources of information." Other sections of the code of practice cover accuracy, objectivity, and fair play. Journalists are urged to be unselfish, to avoid conflicts of interest, to seek news that serves the public interest, to hold truth to be the ultimate goal, to be objective, to separate clearly opinion from news reports, to offer informed analysis, to "at all times . . . respect dignity, privacy, rights, and well-being of

9. See editorial, "Freedom and Restraint," *The New York Times*, May 10, 1976.

people encountered," not to "pander to morbid curiosity about details of vice and crime," to be "prompt and complete" in correcting errors.¹⁰

The "Code of Professional Standards for the Practice of Public Relations" of the Public Relations Society of America (adopted and effective as of April 29, 1977) is similar. Its point ten, which states, "A member shall not intentionally injure the professional reputation or practice of another public relations practitioner," offers an additional guideline. The code calls for reporting by any member of evidence that any other member "has been guilty of unethical, illegal or unfair practices."¹¹

The similarities between these codes are significant, as are what both omit. More case study guides are needed. Perhaps appendices are in order for both guides, analyzing cases revealing how ethical integrity of individuals and organizations, in difficult situations, was found to be commendable, debatable, or condemnable.

The Gannett Co., Inc. (publishers of the Rochester *Times-Union* and many other newspapers) code, adopted by its board of directors on March 22, 1977, is a bit more arresting on the subject of conflict-of-interest clauses and related matters. "The Gannett Company expects its officers and employees to conduct themselves in such a manner that there will be no embarrassment to the company or to the individual concerned if he or she is called upon to explain an action to one's peers, the stockholders or the public." Regarding corporate ethics, there is the interesting provision, well-justified in the light of the reports of U.S. corporations' bribery of public officials and many other influentials—from Indonesia to Watergate, from Tokyo to the Hague—"Commercial bribery . . . will not be tolerated. . . . The company will not contribute to political parties nor to any candidates for public office."¹²

Realism about "Freebies"

Many journalists are cynical about their colleagues' abilities to retain professional objectivity in an environment allowing them to accept gifts or favors—"freebies." We live in a society where money

10. See Code of Ethics, The Society of Professional Journalists, Sigma Delta Chi, adopted by the national convention, November 16, 1973, appendix to chapter 2 of this book.

11. See "Code of Professional Standards for the Practice of Public Relations," Public Relations Society of America, New York City, effective April 29, 1977, n.d.

12. See "Gannett Ethics Code Adopted," *Editor & Publisher*, May 21, 1977, p. 45.

talks very loudly, and most of us are judged less for our ethical behavior than for our ability to acquire possessions, influence, or power. Although newspeople go out into the world and report its developments realistically, they are expected to rise above the prevailing level of seedy corporate and community behavior, to resist the free lunch, stock market tip, sports event tickets, vacation accommodations, travel tickets.

A recent study by Professors Keith P. Sanders and Won H. Chang of the University of Missouri School of Journalism brought new evidence of how deeply worried newspeople are. Steps being taken by employers may be vitally necessary if we are to protect the seekers after truth from the blandishers of gifts.^{12.1}

Professors Sanders and Chang conducted a survey, sending a questionnaire to a stratified sample of 200 newspapers selected at random from the *Editor & Publisher Yearbook*. Most mailings went to managing editors along with a request to give an additional enclosed copy to another staff person. The questionnaire had three sections. The first sought demographic data ("sex, job title, educational level, total years in the journalistic profession"). The second asked journalists whether acceptance of freebies altered their objectivity. In section three, respondents were asked their views on twenty-one opinion statements.

The response was quite adequate, encompassing 52 percent of the newspapers solicited. On the average, the respondents were seventeen-year-veterans in journalism. Fourteen respondents were women; 89.4 percent had college degrees, and 26.8 percent had graduate degrees; 77 percent had been journalism majors as undergraduates.

In response to questioning about whether particular types of free-

12.1. The National Labor Relations Board (NLRB) in at least two cases has ruled on whether a publishing company can mandate an ethical code without negotiating with the employees. In the *Peerless Publishing, Inc.* (publisher of the Pottstown, Pa., *Mercury*) case, an NLRB judge on September 25, 1978 ordered cancellation of a code of ethics and general office rules affecting editorial staff on the grounds that regulations on working conditions have to be subjected to a bargaining process with the employees' union. In the *Capital Times* (of Madison, Wisconsin) case, the NLRB held on January 16, 1975 that the company had committed an unfair labor practice in establishing a code without prior bargaining with employees. Later, in 1976, the NLRB reversed itself and declared by a three to one vote that newspapers have the right to adopt codes unilaterally. For NLRB rulings in *Pottstown Mercury* and *Capital Times* cases, see Keith P. Sanders and Won H. Chang, "Codes—the Ethical Free-For-All," *Freedom of Information Foundation*, Columbia, Missouri, *Freedom of Information Series* no. 7, March 1977. For reversal in *Capital Times* see *The Capital Times Company*, 223 NLRB, no. 87 (1976).

bies would "affect most journalists' objectivity in reporting related stories," the percentages of the respondents affirming influences on objectivity ranged according to the gift from 77.1 percent to a low of 32.7 percent.

The respondents rated certain freebies as more damaging to objectivity than others. Most powerful influences were offers of a foreign trip (77.1 percent); "membership in local country club" (70.9 percent); gifts (61.1 percent); a U.S. trip (58.9 percent). At the bottom of the influence range were free meals or drinks (38.9 percent); "samples of foods, toiletries, perfumes, etc., etc., that routinely came into the office" (33.6 percent); movie or theater tickets (32.7 percent).

Sanders and Chang concluded, "If journalists have such a low regard for the ability of their colleagues to maintain their integrity by the temptation of even the least valuable of freebies, it is obvious that the public hardly can be expected to have much confidence. The house must be put in order."¹³ Perhaps we can take cold comfort from the fact that only 15 percent of the respondents admitted personal susceptibility to freebies.¹⁴ This research was supported by a grant from the American Newspaper Publishers Association Foundation. Assuming the validity of the data, the reactions from all media managers will be most interesting.

A brighter picture does not emerge from a survey conducted by the Public Relations Society of America and reported in 1975. Looking back over the previous year, "Forty percent . . . said they had been offered a combination deal on advertising and editorial space." An equal percentage related that reporters and editors had asked for special favors, including all sorts of freebies.

There is some hope in 1974 evidence suggesting that new employer strictness and new employee attitudes have reduced ethical malpractice.¹⁵ We need more than hope to justify the obviously high regard that Sanders and Chang's respondents had for their own integrity, as compared with the low ratings they gave to associates.

13. Keith P. Sanders and Won H. Chang, "Codes—The Ethical Free-For-All: A Survey of Journalists' Opinions About Freebies," Freedom of Information Foundation, Columbia, Missouri. Freedom of Information Foundation Series no. 7 (March 7, 1977).

14. Ibid, p. 7.

15. See Joseph W. Shoquist, "What Newspapers Are Doing about Their Public Image," *Public Relations Journal* 31 (August 1975): 17-19.

MEDIA ETHICS AND PUBLIC OPINION

Standardized codes of ethics for the mass media are hopeful signs, but their usefulness is limited. Other ethical resources are needed.

I conclude that only a high ethical level of individual professional work by each of us in the media is the answer to the problem. The ethical standards of the media will be determined by the number of people who care. To the extent that we constitute a responsible public, public opinion is a powerful influence.

However, I have doubts about more sweeping comprehensions of public opinion containing assumptions about the whole populace. A dedicated democrat and staunch upholder of the First Amendment is not required to have illusions. Each profession must be based on the highest ethics; each professional must, by his contributions, act as the guardian of those ethics. My reasons for reaching these conclusions about mass public opinion follow.

Why the General Public Waits

Some overly idealistic observers of the media argue that public opinion is a reliable checking influence that ensures that the general welfare will ultimately be served. Like all such generalizations about democratic society, this view had just enough validity to hide the specious logic.

Actually, *public opinion* is the label given to rallied attitudes directed for a brief time in the shape of a coherent idea or concept. Often it has no direct target, no apparent concrete goal. In between moments of group consensus that can be detected by astute recorders of social or political change, it is almost always residual, virtually formless, and composed of leftover attitudes, views, and concerns formed from momentary enthusiasm or anger. The melange that builds into public opinion on an issue or a cause has some basic ingredients at all times, such as self-interest and emotional needs that create views and attitudes. We often have views and attitudes that are not properly called opinions.

Some opinions are shared or handed down from generation to generation. Such opinions are frequently invisible mental clothing that is not changed or checked or cleaned. They include both bitter thoughts and hatreds and good feelings and loving ideas.

Too few members of the public examine ideas intellectually, reaching conclusions in an objective way. Although intellectual arguments based on careful inspections can galvanize an individual

or a group, emotions triggered by self-interest usually are basic to the formation of public attitudes.

The theory that public opinion normally forms in timely reaction to the needs for advice from the citizenry is dubious. Frequently, publics are swayed by savants or demagogues with wrong ideas or unethical motives. It is extremely difficult for people to resist clever publicists who lead by cloaking their true intentions. Public opinion, sadly enough, is often manipulated by phrasemakers and entertainers.

In the mass media, there is increasing managerial emphasis upon entertainment for publics with a great deal of leisure time. Managers are too busy diverting minds from serious subjects to expend much effort on ethical problems, except for the very serious, legally motivated concerns for accuracy, fairness, rights of privacy, libel and defamation law, objectivity. For too long the prevailing attitude has been, if the public buys it, it's good.

Thus the violence, the downplaying of minorities, the pandering to the lowest common denominator of taste, the ignoring of the aged, the infirm, the poor are characteristic of television today. And the press fails to assume more responsibility to push for social reforms. Too many reporters and editors are devoted to stories about people in power rather than attentive to those over whom power is exercised.

For this reason, information and analyses provided must be as accurate and objective as high professional efforts can ensure. Moreover, the ethical necessity of truthfully outlining the altruistic goals of our society should never give way to desires to match sensationalist competitors who profit by deliberately, and out of all proportion, concentrating on displays of the worst evidence of human nature. Third, all aspects of self-interest should be shown, as they are to be found in the stories of humankind. If that is accomplished, the truths about what are called *the real* and *the ideal* will be more frequently in evidence. Fourth, emotion should be considered in all of its forms. It should not be forgotten that in addition to the emotional outbursts so typically considered newsworthy, a spectrum of emotions exists behind all our hopes and fears and is part of too many uninvestigated stories.

When a professional media person wonders why, at a vital time, a public hesitates to support some constructive step, or laudatory goal or necessary risk, personal anxiety about level of attainments is in order. A prime question to be inner-directed is, have I the

feeling that my work is at a high enough ethical level? Public opinion in an age of mass communications is increasingly influenced or misshapen by the media. Behind every public crisis and achievement there is a contribution of practical media ethics.

Critical Advice

Tom Wicker of the *New York Times* has earned the right to criticize colleagues by virtue of his works on politics and government, from the presidency to prison reform. He recently told the audience at a statewide journalism conference in Tennessee, "I call on you . . . and the free American press everywhere to become the last engine of reform" and institute "vigorous disclosure" of private and governmental exploitation and self-interest. He advised them to "care passionately" about humanity and about justice. At the same meeting the renowned journalist David Halberstam, who won the Pulitzer Prize for his Vietnam War reporting and evaluations, advised his professional audience, "Your press card is really a social credit card."¹⁶

On a similar social theme Arthur Taylor, president of the Columbia Broadcasting System, in a 1976 address to the conferees at the annual assembly of the International Press Institute hit on a vital media obligation.

With their expanded responsibilities, journalists also must also realize that there are other rights to be balanced with press freedom—privacy, a fair trial, simple human dignity. Human beings must not be exploited as mere objects of attention, to be drained of their public interest and discarded . . . mass communications carries with it an inherent danger of dehumanization of the individual.¹⁷

There are more specifically directed complaints about press ethics. John B. Connally, the former governor of Texas and secretary of the treasury, has spoken of press failure to keep in check its power to "oppress." He cites some of the "petty" ways, such as misleading or damaging headlines reflecting the bias or anger of "some deskman." Page makeup that magnifies a story out of proportion to its worth is on his list, along with "benign neglect or burial of another story." Connally is also disturbed by the "growing volume of news

16. Michael Gigandet, "Press Urged to Push for Social Reforms," *Editor & Publisher*, February 5, 1977, pp. 22, 24.

17. Arthur Taylor, address to the Annual Assembly of the International Press Institute of 1976, *IPI Report 25* (June 1976): 1, 2.

reporting on serious subjects by writers and broadcasters with superficial understanding of the issues."¹⁸ This last point is substantially confirmed in the 1977 book *Big Business and the Mass Media*.¹⁹

At the 1977 media ethics conference of the Institute for Democratic Communication of Boston University, nationally syndicated columnist Ellen Goodman lambasted the press for including so few women in decision making about what stories to cover. In her view, newspapers are "essentially the record of the games men play: sports, politics, and business." Robert M. Crocker, the secretary-treasurer of the Newspaper Guild, told a panel on "Corporate Influences on Media Ethics" that his organization was formulating an ethics code to include a declaration against news slanting in order to please advertisers, "friends or associates of media proprietors," or institutions. He wants a definite distinction between the news and advertising activities of newspapers, as regards solicitation, preparation, and presentation. Boston *Herald-American* editor-in-chief William McIlwain, as a member of a panel discussion on "Challenges to the Canons of Journalism," urged his listeners to turn away from a trend to make a newspaper "a pop, razzmatazz blend of sports, entertainment, and hot graphics." On that same panel, Loren Ghiglione, the publisher of the Evening News (Southbridge, Massachusetts), warned that "boosterism" is an important ethical problem. "Many newspapers," said Ghiglione, "aren't willing to risk reprisals and so give a Chamber of Commerce-type version of the truth."²⁰

These criticisms demonstrate the variety of ethical issues confronting journalists and the difficulties of resolving them satisfactorily. Most of the ethical questions depend for solution not on any pat formulas but on the essential morality of media professionals.

It is not out of order to seek a basis for ethical imperatives from the extraordinarily wise and practical professor of divinity, Harvey Cox of Harvard University. He told a gathering of Nieman Foundation scholars that ethical questions drive us back to the "moral issue," which takes us back to what he called the "whole issue," a "religious issue." He asked his listeners to consider

18. See John B. Connally, "Advice to the Press," *The New York Times*, May 2, 1977.

19. See Bernard Rubin, *Big Business and the Mass Media* (Lexington, Massachusetts: Lexington Books Division, D.C. Heath, 1977).

20. See Bill Kirtz, "Conference Held on Media Ethics," *Editor & Publisher*, November 19, 1977.

questions of one's basic and cardinal perspective on the world—one's capacity for imaginatively entertaining and feeling the pains of other people, one's capacity to enter into some kind of empathy with people whose situations are not one's own. But I think we would be missing the point if we talk as though we were simply in need of help in making choices which are already forced.²¹

CHOICES FORCED

An editor of a daily newspaper each morning or afternoon ponders such problems as whether a headline is provocative but does not comport with the story that follows; a photograph makes a politician look ridiculous whereas he is characteristically serious; a story plays up a racial identification when such information lacks significance; a feature about old people makes them out to be mentally deficient, although a better reporter would have stressed that a substantial number of them are as intellectually alert as ever but are trapped in one of those dumping-ground institutions for the aged poor. Not to forget: the business story about a local corporation that is puffery and should even be questioned as purchased advertising material. And what about the terse reports typical of his paper's coverage of biting public arguments over issues of abortion, homosexuality, child abuse, or women's rights? Should these be replaced with background reports based on investigative work? On his list are the publisher's hints and directives about the political candidates to be supported. Is the staff being directed to create a virtual blackout on what other candidates are doing? That editor's instructions about these problems set the ethical framework of his organization and drastically influence the ethical awareness of the readers.

Sometimes the ethical questions have more long-range importance, covering the permanent ability of a news organization to do its duty. It is, for example, well known that Ultra High Frequency (UHF) television stations are often good moneymaking machines, concentrating on the running of ancient "sitcom" series and old motion pictures because they are cheap to rent or purchase. There are many contributions made by such UHF stations. For one example, the scheduling of the old "sitcoms" and movies previously referred to, often provides important segments of the public with better fare than is available on the more affluent VHF channels because the general level of current programming is so mundane. Re-

21. See "Ethics and Journalism," *Nieman Reports*, Spring 1976, pp. 25-27.

cently, I was the sole guest on one of the early morning half-hour talk shows presented by a UHF station in the metropolitan Boston area. My host was a most intelligent young woman. In the format of that program she also delivered the news and weather reports along with introductions to frequent advertisements. During our discussion dealing with the relationships between the goals of the professional communicators and politicians, I was impressed with the sincerity and knowledge of my host—rare in one who every weekday talked to guests called upon to make comments on a great variety of subjects. At one point, the issue of local television station responsibility (in any community) for community affairs came up. I discussed the needs and possibilities for better reporting. In turn, I inquired about how much live or delayed on-the-spot coverage of that type the station provided. Somewhat apologetically, though she bore no responsibility, my host admitted that because there were no portable cameras in the station's inventory, and virtually no public affairs staff, there was no live or delayed on-the-spot work. My response was that more important matters were obviously not dealt with if a fire down the street from the station would be outside the range of the equipment. We were both distressed and unable to do much about it.

The ethics of that station's management—running a profitable venture without investing more than token amounts in public affairs staff or equipment—are not commendable. As I left the building, my thoughts turned to the moderator who obviously was capable and interested in greater community-service reporting. Noticing a large liquor store close by, I was at that moment struck by the similarity of the two businesses.

ETHICAL CASES IN POINT

The following brief summaries of recent situations involving ethic problems are intended to be representative and are not presented in any order, since, in a practical approach to ethical problems, the most important problem is the one at hand.

The Santa Clara Exclusive

"Weekend," a monthly television news-feature magazine on NBC, devoted the ninety-minute telecast of May 7, 1977 to a documentary on the work of the Santa Clara Child Sexual Abuse Center (California), specifically dealing with incest. The producers got the clinic's directors to agree verbally not to give interviews about the

program to any other electronic-industry journalists. NBC people from other units were included in the ban: a reporter for the radio news service of NBC (NIS) was in April refused interviews for a radio series on incest. The ban was to be in force until the telecast. The founder of the clinic said that his organization made the decision to grant the exclusive arrangement because the "Weekend" people had worked hard on the documentary: "We think they're equipped to do the best job of informing the public about our program, and we don't want anyone upstaging them before they go on the air."

An NBC radio reporter, Tom Giusto, called it a "bad situation. . . . We have an organization dedicated to the rights of free speech being party to an agreement that prevents public officials from talking to the news media on a problem of major public importance."

Protection of an exclusive is well established in journalism. The ethics of any attempt to defer or deny commentary to rivals are debatable, especially when no interference with the actual television product, the documentary, was posed. Any and all responsible reporting on the subject of incest is in the public interest. The wall of silence thrown around the clinic is counter to the public interest. When dealing with any general subject, such attempts at exclusivity border on censorship contrary to the First Amendment.²²

Post Scripts

A former editor-in-chief of *Newsweek* magazine, Osborn Elliot, was deputy mayor for economic development in 1977 during Mayor Abraham Beame's tenure in New York City. In July, he took issue with Rupert Murdoch, the publisher of the *New York Post* over the headline "24 Hours of TERROR" that appeared following a blackout. In a "Dear Rupert," letter Elliot wrote, "Perhaps you wouldn't have gotten so many people to buy your papers—for that one Friday—if you had been more responsible." Commenting on what he called the city's "first big crisis" since Murdoch, the Australian publishing magnate, had taken over the *Post*, Elliot asked, "Are you proud of what your headlines produced?"

Murdoch defended the headline and the story, saying that his newspaper took the phrase from Mayor Beame. As for a *Post* conclu-

22. See Les Brown, "Clinic in an NBC Show on Incest Pledges to Bar Rival Journalists," *The New York Times*, April 18, 1977.

sion that looting during the blackout was "the worst outbreak of rioting during the city's history," Murdoch told a *Times* correspondent, "I don't know anything about that. You'd have to ask the journalist who wrote it."²³

Murdoch was absolutely right in referring to the reporter. Publishers and editors should never try to respond to a question about any story about which they lack personal knowledge. However, Elliot was right in raising the issue about the headline if he had concluded, on the basis of a long-term career in journalism, that it was irresponsible. There is no obvious right or wrong here, only a clear ethical problem. At times of public crisis, the duty of news organs to inform places a heavy burden on them. The truth, however distasteful, is the immediate and ultimate goal. There are times, though, when the full story on the publisher's or editor's desk goes beyond the copy or photographs or films made available by staff. It is necessary to avoid sensationalism that creates further distress or disorder. The public must have the facts, warts and all, and news managers must exercise all their wisdom and manifest the common sense acquired through the years.

Still, the distinctions between what is proper and what is not are much fuzzier than we would like to admit during a crisis. The newspeople are not detached from crisis; they are perhaps more involved than many other citizens. At the actual moments when the news manager's eyes range over controversial material, only personal ethics suffice.

Rupert Murdoch has not been exactly out of the limelight since his New York *Post* acquisition. In October 1977, fifty of his reporters presented him a petition because of "disquiet over slanted news coverage" during the mayoral campaign then in progress in New York City. One of the petitioners noted concern about the placement and display of stories favorable to the candidates for mayor and president of the City Council already endorsed editorially by the newspaper. The petitioners wanted editorials and endorsements to be different from political news coverage which they wanted to be objective, *i.e.*, factual in basis, evenhanded and not favorable to any candidate. Murdoch rejected the petition's allegations and, after a conference with the publisher over the petition, one long-time *Post* reporter posted a bulletin-board notice that Murdoch felt that any person who doubted his integrity should look for another job.

23. See "Post Is Scored for Its Coverage of Blackout," *The New York Times*, July 19, 1977.

Should the group of petitioners have been disturbed by the *Post* centerfold of September 16, 1977, three days before a runoff election between the *Post*'s candidate for City Council president and the opponent? The headline, "Cinderella Carol" (State Senator Carol Bellamy) was over what is described as "a profile . . . illustrated with 11 pictures from her family scrapbook, showing the politician from the age of 10 months, 'with Santa at 6,' 'at 9, on the way to church' and 'relaxing after a hard day's campaigning.'"²⁴

To Get the Story

The barely satiable desire to *get the story* is what makes a good newswoman. Like all other qualities, this ambition if carried to extremes ceases to be a virtue. Robert Scheer has acquired some personal publicity from his success in getting interviews with people in the public spotlight. In one such interview during the 1976 presidential campaign, he managed to get candidate Jimmy Carter to speak of *lust* in the heart and other subjects not traditionally discussed by those seeking to live in the White House.

Scheer toyed with outrageousness when he spoke at the A. J. Liebling Convention sponsored by *More: The Media Magazine*. His subject was "The Art of the Interview." He told the conferees:

Politicians try to prevent you from knowing what's going on because that's how they survive. And they have lots of people employed to help them. The journalist's job is to get the story by breaking into their offices, by bribing, by seducing people, by lying, by anything else to break through that palace guard. . . . I can't say now I wouldn't lie. I think the most important thing to a journalist is to get the story . . . maybe I would promise anything, as long as I could get out of the country on time.

Scheer says he is out of a tradition he labels "counterjournalism." He has good credentials as an activist-critic. He edited the magazine *Ramparts* for five years, and his books include *How the U.S. Got Involved in Vietnam*, a very early antiwar analysis, and *America after Nixon*, dealing with the powerful multinational corporations. Still, his comments about how far he would go to reach his goals make most newspeople cringe.

Interviewed at length after the convention by a *More* contributor, New York *Daily News* political correspondent Ken Auletta, Scheer

24. See Carey Winfrey, "50 of 60 Post Reporters Protest 'Slanted' Coverage of Mayor's Race," *The New York Times*, October 3, 1977.

went into more details about "guerrilla journalism," which he sees as different from "access journalism." Specifically responding to a question asking how he separates "what is permissible from what is not permissible," he offered the Watergate Deep Throat as an example of permissible tactics. "I don't know what laws he violated," said Scheer, adding, "A hell of a lot of the investigative journalism of the last five years has come from such information. Files that are lifted, people who are violating the conditions of their jobs, and so forth."²⁵

Scheer some time ago was one of the *Ramparts* group that produced the exposé of secret CIA financial backing of American student organizations. Is the pot calling the kettle black? If, in the name of ethical response to illegalities and unethical behavior, the press condones conduct similar to that deserving condemnation, there is no end to the storm hurling long-fought-for and cherished democratic guarantees out of sight of civilized humanity.

In opposing those who knock on the doors in the dark of night and drag citizens away, we democrats destroy our own power by imitating those we stand against with the excuse that the means are justified by the ends. Here we may be dealing with the most vexing ethical problem of all, since by extension it does damage to all professional ambitions.

Privacy or Publicity?

The right of privacy does not derive from a specific guarantee in the U.S. Constitution. Professor Alan F. Westin, in his exhaustive analysis *Privacy and Freedom* (1967), gave the definition, "Privacy is the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others."²⁶

Privacy law as we now follow it has origins in the classic 1890 article by Louis D. Brandeis and Samuel D. Warren, "The Right of Privacy," which appeared in the *Harvard Law Review*. They noted the individual's increasing sensitivity to publicity and concluded that "solitude and privacy have become more essential to the individual; but modern enterprise and invention have, through invasions upon his privacy, subjected him to mental pain and distress

25. See Ken Auletta, "Bribe, Seduce, Lie, Steal: Anything To Get The Story?" *More: The Media Magazine* (March 1977): 14-20.

26. Alan F. Westin, *Privacy and Freedom* (New York: Atheneum, 1967) p. 7.

far greater than could be inflicted by mere bodily injury."²⁷

Invasions of privacy by government and private groups have become so commonplace that many citizens are fearful that lost liberty to maintain individual dignity through appropriate aloofness from associations cannot be regained. A significant number of novelists concentrate on plots built around evidence of the reduction of privacy and related independence.

Privacy law—as it constructively protects the individual in society against the invasions by the computer manipulators, the snoopers who use electronic devices to discover bad practice in everybody's business but their own, and the mass media, which have capitalized on personal distresses at the expense of public good—is obviously necessary. However, such legal defenses are insufficient; we must have the highest possible ethical standards observed by all in important public positions. Only through the combination of legal protections (fortunately expanding) and high ethics can we hope to, as Thomas J. Emerson says, "maintain the oneness of the individual despite the demands of the collective."²⁸

The Supreme Court has protected individual right to privacy against certain types of media coverage, especially in matters of defamation and libel. Several tests are now applicable to determine whether a complaint of invasion of privacy is justified. For example, "public" persons have less claim to privacy than have citizens whose activities are predominantly of a private nature.

In *New York Times Co. v. Sullivan* (1964), Mr. Justice Brennan, speaking for the majority, said, "The constitutional guarantees require, we think, a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not."²⁹

In *Gertz v. Robert Welch, Inc.* (1974), Mr. Justice Powell delivered the opinion for the majority. "Absent clear evidence of general fame or notoriety in the community, and pervasive involvement in

27. See Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," *Harvard Law Review* 4 (1890): 196.

28. Thomas I. Emerson, *The System of Freedom of Expression* (New York: Random House, 1970), p. 546.

29. See *New York Times v. Sullivan*, Supreme Court of the United States, 1964: 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686.

the affairs of society an individual should not be deemed a public personality for all aspects of life."³⁰

Time Inc. v. Firestone

The public versus private distinction arose in a most interesting way in the 1976 case *Time Inc. v. Firestone*. It was the culmination of a tangled divorce action brought by Mary Alice Firestone in 1964, after a then three-year-old marriage to Russell Firestone (scion of the important industrial family). She sued for divorce. He then counterclaimed, charging extreme cruelty and adultery. The circuit court of Palm Beach County, Florida, gave him a judgment granting divorce.

A week after the decree, *Time* magazine, in its "Milestones" section published a short paragraph.

Divorced. By Russell A. Firestone, Jr., 41, heir to the tire fortune: Mary Alice Sullivan Firestone, 32, his third wife; a onetime Palm Beach school-teacher; on grounds of extreme cruelty and adultery; after six years of marriage, one son; in West Palm Beach, Fla. The 17-month intermittent trial produced enough testimony of extra-marital adventures on both sides, said the judge, "to make Dr. Freud's hair curl."

Mary Firestone demanded a retraction from *Time*, contending that part of the published paragraph was "false, malicious and defamatory." The publication declined the demand. She consequently sued *Time* in the Florida circuit court and won a judgment of \$100,000, later affirmed by the district court of appeal and the Supreme Court of Florida. *Time* appealed to the U.S. Supreme Court, charging that the First and Fourteenth Amendments limited state court powers in the area of damage awards for defamation. Moreover, *Time* claimed to be guilty of no actual malice (*New York Times v. Sullivan*) and said that Mary Firestone was a public figure (*Gertz v. Robert Welch, Inc.*).

Mr. Justice Rehnquist noted that Mary Firestone "did not assume any role of especial prominence in the affairs of society, other than perhaps Palm Beach society, and she did not thrust herself to the forefront of any particular public controversy in order to influence the resolution of the issues involved in it." Putting aside *Time's* argument that the words of the Florida Supreme Court

30. See *Gertz v. Robert Welch, Inc.*, Supreme Court of the United States, 1974. 418 U.S. 323, 94 S. Ct. 2997, 41 L. Ed. 2d 789.

about the divorce, a "*cause célèbre*" in its characterization, Rehnquist stated that was not justification for the claims that there was a public controversy or that she was a public figure. "Dissolution of a marriage through judicial proceedings is not the sort of 'public controversy' referred to in Gertz, even though the marital difficulties of extremely wealthy individuals may be of interest to some portion of the reading public."

Reaching the conclusion that there was technical reason to remand the case, the Supreme Court deftly left Ms. Firestone a private person in law and reaffirmed the doctrine that a case of press libel or defamation must rest on whether a public figure was involved who had been voluntarily exposed to "increased risk of injury from defamatory falsehood."³¹

These cases, especially the Firestone case, point to the element of privacy that the press must respect. Salacious material in legal transcripts suits the tastes of many readers, viewers, and listeners. Should the media fail to discriminate between what is properly public and what is not, ordinary private citizens will fear to go to court to obtain justice because of the threat of defamation through publicity. Such stories obviously tantalize publishers and editors, and the Firestone case makes us all aware that fairness requires that the law intervene where temptations are too great for media managers—temptations that, when succumbed to, can lead to ruined reputations and lives. I find it hard to go along with Mr. Justice Marshall, who in his dissenting opinion felt that active membership in the "sporting set . . . whose lives receive constant media attention" shrivels personal rights.

More palatable to opponents of censorship are comments made by Mr. Justice Brennan in his dissent. "With respect to judicial proceedings . . . the function of the press serves to guarantee the fairness of trials and to bring to bear the beneficial effects of public scrutiny upon the administration of justice."³² That view is highly commendable, but the fairness of our system of justice requires that citizens can settle private matters in court. Dirty linen in a court of law is only evidence; in the press it is material for flagrant display. Let public officials' linen, clean and dirty, be waved before all; let a free press be mindful of the need to cover legal affairs professionally so that private lives will not be needlessly shattered.

31. See *Time, Inc. v. Firestone*, Supreme Court of the United States, 1976. 424 U.S. 448.

32. *Ibid.*

Televising Mrs. McShane and Mrs. Mott

From Great Britain, where an unwritten constitution has evolved from centuries of case-law decisions, a situation of enormous importance to all ethics-minded communicators arose in 1977. It involved rather special police-television industry cooperation.

In August 1977, British television audiences were offered a Yorkshire TV documentary, "The Case of Tolande McShane." The documentary was a shorter version of a 3½-hour recording that the Sussex police had had made secretly, using professional filmmakers. Their standing with the police was based upon an earlier production of another documentary involving a murder case.

The original videotapes, in full, were offered in evidence at the trial of Mrs. McShane, who at the time of the program was serving a two-year prison term for her efforts to get her mother to commit suicide.

Just before the documentary version was shown to the nation, the mother, Mrs. Mott, died of natural causes at eighty-seven in Saint George's Retreat, a nursing home near Brighton run by an order of nuns.

It was alleged at the trial that Mrs. McShane, motivated by debts running into more than 200,000 pounds and desiring to benefit from the will, urged her wealthy mother to take a fatal dose of nembutal. The police had been informed of what was going on.

To make the videotaping possible, the nuns' permission was obtained. There was thus no question of trespass. The requisite legal warrant to make the film avoided obstacles in English law. It is highly unlikely that the filming would have been allowed had Mrs. Mott been a "tenant," or had she or her daughter lived in their own houses. Mrs. Mott was, legally speaking, a "licensee," and only the owner's permission was required. In England, only telephone tapping requires a warrant "under the hand of a secretary of state."³³

A small hole had been drilled through one of the walls of Mrs. Mott's room, and videotaping was carried on at the times of the daughter's visits. Unknown to either woman, picture and sound evidence was being built up by the police.

The videotape, already the key evidence behind Mrs. McShane's

33. See "Convicted by Videotape," *The Economist* (London, England) 264 (August 27, 1977): 32.

conviction, was offered by the chief constable of the Sussex police to YTV at no charge. The police felt that the general public should be made aware of such dangers to the aged.

Mrs. McShane's husband did not denounce the program. He said his wife had nothing to fear from it. A YTV spokesman observed, "I think they feel it has an important social message about the problems of the elderly within the family."³⁴

At the time of Mrs. McShane's trial, the dialogue between her and Mrs. Mott was published in the press and reported on television newscasts. The ethical issue is whether the showing of the film should be added to the penalty of the prison sentence. Should the crime of murder and punishment of an offender be followed by sensational films depicting the actual crime? Should the hideous and the macabre be added to the instruction-entertainment offerings of the mass media, at the price of essential privacy? Should the punishment fit the crime, or should publicity garland the crime? The method of public education is sometimes independent of the acknowledged necessity to inform. The content of information need not be on the level of those who transgress human decency. Although the making of the original videotape can be justified, the YTV presentation has many dubious qualities. An editorial in the *Daily Telegraph* said aptly: ". . . the use of the police film introduces a lurid immediacy bordering on the voyeuristic. . . . By no canon of taste can public display of such a film be justified."³⁵

This bizarre situation brings the theoretical and the real together. No outpouring of sympathy for Mrs. McShane appears logical or sensible. The tensions imposed upon the dying Mrs. Mott are so horrid that one hesitates to condemn out-of-hand police actions that led to the conviction. The plights of the elderly are dramatized by the case. For all that, ethical standards have been violated. The late Mrs. Mott deserves more respect than she received from the mass media.

THE NEWS COUNCILS

Media people, especially those who concentrate on news gathering, dislike as a rule, overseers looking into the propriety of their

34. See "Police Tape on TV 'To Help Aged,'" *The Daily Telegraph* (London, England), August 19, 1977.

35. See "Not A Film for the Public," editorial, *The Daily Telegraph* (London, England), August 19, 1977.

actions or reports. For every individual who sees such organizations as the National News Council (created in 1973) as a professional necessity, there are many who still resent alleged interference with First Amendment rights. Collectively, the press constitutes the most organized body of critics in the nation; that may explain some of its own sensitivity to criticism.

Even ombudsmen, who act as conduits for public complaints and as sensitizers of the staffs of news organizations, are scrutinized carefully when their criticism hits too directly at raw journalistic nerves. Wise holders of such positions secure long-term, virtually unbreakable contracts that guarantee their rights to publish without editorial blocks by their employers. On some metropolitan papers, ombudsman is a good last assignment for a veteran newsperson who knows that his colleagues' desires for penetrating critiques of their work are shallow.

The press council as an institution has become a rapidly developing feature of Western European nations, Canada, and New Zealand and has taken hold in the United States. One of the first calls for the establishment of a press council was made in 1947 by the Hutchins Commission. It wanted an independent agency to assess and to report yearly on press performance. Other such recommendations came in 1951 from Senator William Benton of Connecticut, who wanted Congress to create a presidentially appointed group to appraise electronic media performance. Through the 1960s and early 1970s a variety of similar proposals were sponsored by study groups dealing with press issues.³⁶

Precedents have been set since 1953 when the British Press Council was created. In 1971, the Minnesota Newspaper Association created the Minnesota Press Council, comprising nine journalists and nine laypersons. By 1974 it had decided eleven cases and acted as conciliator in others.³⁷ There are a growing number of independent local and state press councils, which deal with such subjects as biased reporting; checkbook journalism; protection of news sources; law-media relationships; libel; access of the press; accuracy; editorial distortion and press accountability.

36. See Jonathan Moore, James C. Thomson, Jr., Martin Linsky, and Michael J. Israels, eds., *Report of the New England Conference on Conflicts between the Media and the Law*. September 1974-September 1976. Cooperatively sponsored by the Institute of Politics, J. F. Kennedy School of Government and the Nieman Foundation of Harvard University, 1976.

37. For background on the Minnesota Press Council, see The Twentieth Century Fund, *A Free and Responsible Press* (New York: The Twentieth Century Fund, 1973), especially pp. 37-45.

The National News Council was created in 1973. Its purpose is "to serve the public interest in preserving freedom of information and advancing accurate and fair reporting of news." Its members and advisers, numbering twenty in 1975, included five lawyers (two former state judges), one member of Congress, ten media representatives, one businessperson, two civil rights leaders (one from the clergy), and one educator.³⁸

Some leading media critics attack press councils, viewing the First Amendment as absolute, and any guideline-creating or guidance-recommending group as an unjustified imposition. Nat Hentoff, the celebrated journalist, has written: "The grail of 'fairness' is an enticing one, but unless editors are allowed to edit on the basis of their own judgment—however quirky and infuriating that judgment may be to many citizens—newspapers and magazines will be saddled with a fairness doctrine which, as William O. Douglas says of the doctrine imposed on television, 'is agreeable to nations that have never known freedom of the press . . .'"³⁹ Another objection comes from publishers and editors who worry about press council investigations sparking public hostility to the press.

There are those who advocate increased nonprofessional membership on the press councils to reduce public opposition and to better reflect the variety of citizen concerns as well as the special concerns of a particular community. Many leaders of the media accept the notion of public participation but feel that experienced newspeople are best able to deal with the controversies that arise. In my view, there should not be less than 50 percent public membership. Alert and responsible leaders from all professions are daily clients of the mass media. Special knowledge needed to handle press council cases can be acquired without undue intellectual strain; media and public representatives alike would need supplemental information if a complex technical question was at issue.

National News Council Cases

NNC deals with print and electronic media problems, although it has yet to resolve its internal quandary concerning how far to go on television and radio matters regulated by the Federal Communications Commission.

38. See the National News Council, *In The Public Interest: A Report, 1973-1975* (New York: The National News Council, 1975), pp. 1-9.

39. See Nat Hentoff, *How Fair Should TV Be?* (New York: Television Information Office, 1974).

In the first two years of operation, NNC dealt with fifty-nine cases involving complaints raised against the media. Twenty-one complaints were dismissed because of insufficient "specifics" or because they were "beyond the Council's purview"; thirty-three were found to be unwarranted; five were upheld. Twenty-four complaints had been raised in that period against television networks; two were upheld. Two of the eleven complaints filed about national newspaper stories were upheld.

To carry out its obligations, the NNC needs data from media organizations. The New York *Times*, not a supporter of the council, has withheld requested information. NBC-TV in November 1974 stayed away from a council hearing on a complaint brought against the network by a former governor of American Samoa who criticized a "Weekend" program. NBC did provide transcripts of the program and arranged for the viewing of a taped recording. Former Governor John Haydon described the program as inaccurate and deliberately designed to "malign the Samoan people, the administration of the territory, the Department of the Interior." NNC, after investigating, concluded that "while great latitude must be accorded to television producers in the case of any given documentary," there is and ought to be "a limit to the degree of distortion and misrepresentation. . . . We believe that the NBC documentary on Samoa clearly exceeds that limit." To reach its decision, the council called in experts, including Margaret Mead, and pondered government reports, press clippings, and academic studies, in addition to its studies of the actual documentary broadcast.

In another case in 1974, the council found justified a complaint against the *Times* by a scientist, Dr. Anton Lang, regarding an analysis of a scientific study of herbicidal spraying in South Vietnam. In his view, an article by John Finney (also published by the Washington *Post**) released prior to public disclosure of a scientific study was "based on a leak, contained outright errors, was slanted, disregarded important constructive aspects of the report." The "*Times* had a special obligation to its readers, upon official release of the report, to disclose any differences between its original article and the official version." Moreover, the newspaper did not publish Dr. Lang's letter of complaint and, in a subsequent and fuller article providing more details about the consensus of scientists who worked

* The *Post* was not a party in the NNC finding because the *Times* news service had moved the article.

on the study, did not say that the "original article was incomplete."⁴⁰

The Panax Controversy

A 1977 council decision caused much controversy within professional media circles. At the center of the debate was Norman E. Isaacs, the veteran newsman, editor, and publisher who became the second chairman of the NNC.

The Panax case arose in June 1977 when John P. McGoff, the head of the Panax publishing organization (eight daily and forty weekly newspapers and printing companies in the United States and South Africa), sent to his newspapers' editors two feature stories written by the then Panax bureau chief in New York. Both gave unflattering pictures of President Carter's administration. One suggested that Carter encouraged sexual promiscuity among male staff members; the other claimed that the president was preparing his wife for the vice-presidency. McGoff told his editors that the articles were "explosive," asked for prompt publication, and urged front page space, if possible.

Two editors, of the *Marquette Mining Journal* and the *Escanaba Daily Press*, both in Michigan, protested. The articles were characterized by one editor as ridden with "innuendo and insinuations." There was additional comment about the writer jumping to his own conclusions "unencumbered by fact." Both editors supported McGoff's right to present his own views or other views on the editorial page. One of the reluctant editors resigned; resignations in protest followed. The other editor was fired.

Community rallies in Escanaba and Marquette opposed McGoff's actions. Protests were addressed to the NNC and other news organizations. Publisher McGoff replied to critics with the "Declaration of Interdependence" carried by the Panax papers. The management denied that editors had been ordered what to print. But McGoff was held to have the right, as major Panax stockholder and executive, "to distribute whatever news copy he deems appropriate and to demand, if necessary, that such copy be printed."

Norman Isaacs, at that point, appears to have pushed the NNC review of the Panax developments in an unusual manner for a careful arbiter. A vote of council members was obtained by telephone.⁴¹

40. See News Council, *In the Public Interest* pp. 7-12, 78-81, 113-116.

41. See John L. Hulteng, "The Performance or the Power?: The Crux of Panax," *The Quill*

The count was twelve to one in favor of censuring the head of Panax and his organization for "gross disservice to accepted American journalistic standards." Subsequently, two changed their votes for censure after pondering further evidence. The action became highly controversial. Some outside observers began to question the NNC's ignoring of the actual contents of the stories in favor of a quick telephone vote on the issue of interference. However, the NNC termed McGoff's policy "regressive—a throwback to the crass episodes that marked the journalism of a bygone era—and brands it as a gross disservice to accepted American Journalistic standards."

William Rusher, council member and treasurer of the *National Review*, was the original lone dissenter. In his view, "If newspaper publishers are to be held responsible for the contents of their publications—and they most certainly are and ought to be—then I do not see how we can deny a publisher the right to determine, in the last analysis, what that content should be."⁴²

If the stories were worthy of condemnation because of gross inaccuracy or because they distorted news, council review would be warranted. If McGoff had obviously transgressed the professional code, NNC opinion might also have been helpful in the long run.

As it turns out, the council, which must be deemed extraordinarily careful, objective, and mindful of the most subtle First Amendment issues, is itself controversial because of this case.

Editor and Publisher (December 1977) editorialized that NNC's handling of news "of its complaint against Panax Corp. has caused it to lose stature, in our opinion."⁴³

NNC, the anxious overseer, may have with more zeal than wisdom taken a temporary detour from the road leading to the achievement of its professional goals.

HORIZONS

We are always in the process of discovery when dealing with media ethics. We are always obliged to make ethics personal, to involve ourselves in the search for higher standards. And in the process a personal question arises: What am I doing about what I have discovered?

65 (October 1977): 23-25, 29.

42. See "National News Council Report: Statement on John P. McGoff and Panax Corporation Policy," *Columbia Journalism Review* (September/October 1977): 83.

43. See "News Council and Panax," *Editor and Publisher*, December 10, 1977, p. 4.

What are we to do about the ethical problems raised by all the violence directed against children on television, cloaked as entertainment but really motivated by commercial desires to sell toys or cereals or candies? What are we to do about the newest revelations about how the CIA secretly spread false news abroad, which on occasion spilled back into the U.S. media as truth? What are we to do about judicially imposed gag orders?

Let us consider two recent news stories that involve difficult issues for media professionals. The first has to do with press competence in handling crisis stories. In the second, press claims that First Amendment rights transcend the rights of the general public are defended and disputed.

Crisis Reportage

The news media are becoming more sensitive to public needs and psychological dependencies. Few professional journalists accept the notion that the press merely reports what is happening in a detached manner. At times of social crisis the reportage can and often does alter the social scene, thereby helping to create attitudes material to events that will follow. A scare headline, as we have noted, shouldn't appear just to increase newsstand sales. Reports about terrorism must educate without making the situation worse. Stories about the exploits of desperadoes should not glorify their deeds, thus manufacturing antiheroes who despite infamous activities become popular models of decisive action.

Media leaders are becoming more aware of their ethical responsibilities to educate publics through responsible dissemination of scrupulously prepared reports. They are becoming more sensitive to what amounts to censorship through interpretation. If a terrorist's demands are blurted to the public without appropriate review of the situation that the police find themselves in trying to save the lives of hostages, the public welfare is also made hostage to media irresponsibility. A caustic analysis of certain types of media coverage was offered by a scholar, "a specialist on revolutionary violence," to publishers and editors attending a panel discussion on terrorism at the 1976 International Press Institute meeting. Dr. Bowyer Bell of Columbia University warned that editors can be part of the problem. "The IRA set off bombs in London to bomb the Irish elections off the front page, and they succeeded," observed Bell. Surveying the audience, he said, "I've never before been in one place and seen

as many terrorists as I have here.”⁴⁴ One imagines that many in the audience agreed with his first premise, but after his rude, provocative characterization wondered how he would act as an editor when faced with the typically incomplete, disordered information that first breaks about a terrorist strike or a racial riot.

CBS News President Richard S. Salant prepared guidelines (issued in April 1977) for that network’s newspeople working on stories about terrorist activities. He warned the journalists to avoid “the trap of providing an unedited platform” useful to terrorists’ propaganda objectives. For example, Salant suggested that terrorists’ demands might better be issued as paraphrased material. The specific words of the terrorist or kidnapper, or the use of his/her voice, might not be appropriate. Salant said this was a guideline and not an order to the reporters. All factors must be studied in order to avoid news suppression or to “give free rein to sensationalized and erroneous word-of-mouth rumors.”⁴⁵ Among the practices he suggested avoiding were providing a terrorist with an “excessive platform” on television for his views or complaints; giving live coverage of the terrorist except under extraordinary circumstances (approval of the CBS News president or his deputy should be secured); interfering with telephone exchanges between the authorities and the terrorist; overplaying the story.

When in 1977 the leader of a sect of Hanafi Muslims, aided by followers from his miniscule sect, seized three buildings and many hostages in Washington D.C., he shrewdly began to manipulate the press and achieved considerable success, in large part because the media were so unprepared and so irresponsible. For example, radio and television stations tried to telephone the terrorists. Those callers were so eager for scoops that they virtually ignored police efforts and made the psychological environment for the police more difficult. Sometimes their calls jeopardized the lives of the hostages. One hostage, after release, spoke of “two days of brutalization and absolute terror.” When the ordeal was over, one young black journalist was murdered, eleven hostages wounded or injured, and scores of hostages would have to carry psychological scars for years to come.

What were the ethical implications of WTOP-TV’s broadcasting a telephone conversation between a newsman and one of the

44. See I. William Hill, “Japanese Newsman Urges Introspection of Press,” *Editor & Publisher*, May 15, 1976, p. 9.

45. See Les Brown, “CBS Curbs on Terror,” *The New York Times*, April 15, 1977.

terrorists? What were the ethical implications of the frantic competition between television stations in the D.C. area to get the biggest audiences? Was a Washington columnist's portrait of the terrorist leader (on the day that the young newsman was buried after the end of the siege) as a man "of enormous dignity" who "could not help coming off more as a sympathetic figure than as a monster" justified?⁴⁶ What are the ethical implications of many journalists' persistent ignorance of information necessary to the coverage of crisis stories?

Lacking the proper background to cover terrorism, reporters interview anyone—including each other. They ask questions but miss the important ones. . . . Reporters who don't know a Belfast Syndrome (civilian combat fatigue) from a Stockholm Syndrome (the camaraderie captors and captives develop) must be handicapped when writing about continuing violence or hostages.⁴⁷

Press Claims for Rights Disallowed the General Public: The Gilmore Case and the Texas Controversy

The situation surrounding the trial and execution of Gary Mark Gilmore by the State of Utah deserves our attention. With the last nervous words of "Let's do it," the murderer met his death by firing squad on January 19, 1977. He had been the center of public curiosity not only for his deeds but because he demanded to be executed. For ten years previously not a single legal execution had been carried out in the United States. Because of his demand (so unlike the usual attitude of those on Death Row who seek every delay possible), Gilmore attracted civil libertarians eager to take a stand against the death penalty.

Gilmore was at the center of attention for other reasons. To show his determination to die he had, after sentencing in 1976, gone on a twenty-five-day hunger strike and twice attempted suicide. His love affair with a young woman who herself attempted suicide while he argued for execution added another sensational touch.

The Gilmore case brings up two related questions of press rights. First, does the press have a right to interview prisoners that exceeds any state's regulations governing public access? Second, does the press have the right to information beyond that allowed the general public? These questions boil down to the First Amendment issue as

46. See Patrick Buchanan, "Newswatch: Television—Patsy and Promoter for Terrorists," *T.V. Guide*, March 20-27, 1977, p. A-5.

47. See Mark Monday, "What's Wrong With Our Aim," *The Quill* 65 (1977): 19-20.

to whether the press can be limited under certain conditions established by government to protect privacy, to avoid sensationalism, or to maintain security.

Let us agree at this point that we are anxious to extend First Amendment rights whenever possible, to protect the public's right to know about official transgressions of any sort against individuals. That is the basic stance of all democrats.

Gilmore appears to have been clever, brutal, and emotionally unstable. His mental agitation was probably heightened by all sorts of offers from wily promoters and innumerable requests from news organizations eager to secure interviews. On November 12, 1976, press interviews with Gilmore were forbidden by the Utah State Board of Corrections because of possible disruption from interviews and the tremendous publicity.

Previously, the state had permitted prisoner interviews if the prison warden agreed and took steps to avoid disruptions. The Salt Lake City *Tribune* on November 17, 1976 appealed to U.S. district court in Salt Lake City to overturn the no-interview policy. The newspaper won for itself alone a temporary restraining order from the district court judge. That same night its suburban editor interviewed Gilmore. That story was published on December 2.

ABC and CBS and two Salt Lake City television stations—KSL and KUTV—frustrated at their inability to get interviews, went to the U.S. district court to obtain similar rights. Coincidentally, the Utah State Board of Corrections appealed to the U.S. Court of Appeals for the Tenth Circuit and was granted first a temporary order lifting the district court's temporary restraint on the board, and then (on December 3) a permanent vacating of the lower court's order. A further appeal by the *Tribune* to the Supreme Court was rejected on December 17.

At that point, the *Tribune* and KUTV returned to the U.S. district court to seek to overturn the Utah law excluding the press from sending representatives to cover executions. The general public under that same law was not allowed to attend; attendance was limited to officials (the warden, a physician, the county attorney) and persons the prisoner is allowed to invite (one or two members of the clergy, five relatives, friends, or other persons).⁴⁸

48. See "Gilmore Execution Leads to Utah Lawsuits Over Press Access to Executions" in *The News and the Law* 1 (October 1977): 9-10.

The Utah statute was upheld on January 13, 1977, six days before Gilmore's execution. The court cited its agreement with two Supreme Court decisions (*Pell v. Procunier*, 417 U.S. 817 [1974] and *Saxbe v. Washington Post Company*, 417 U.S. 843 [1974]), which held that the press did not have "a greater right of access to individual inmates than is accorded the general public. . . . The Court in *Pell* did . . . balance the state's interest in discipline versus the individual inmate's freedom of speech. . . ."

The district court used more *Pell v. Procunier* language to show why it sided with the decision of the Board of Corrections.

Despite the fact that news gathering may be hampered, the press is regularly excluded from grand jury proceedings, our own conferences, the meetings of other official bodies gathering in executive session and the meetings of private organizations. Newsmen have no constitutional rights of access to the scenes of crime or disaster when the general public is excluded.

The district court stressed that the Utah law in question was aimed at avoiding sensationalism, with a due regard for "reasonable deference to the condemned man under these circumstances."⁴⁹

My own conclusion is that the press ought to have a reasonable right of access to prisoners and to all proceedings of public importance. However, members of media institutions are so independent that most would probably object to any sort of a pool arrangement whereby representatives would share a big story with all colleagues. Many would argue that such a plan would freeze interpretation according to the selection. Others would argue that the interests of the press corps are so diverse that no limitation of access would permit the variety of coverage possible. Therefore, I have an ethical puzzle to solve: how can the press afford the prisoner full protection against undue invasion of privacy? Is it better to have restraints imposed upon all by a pool arrangement or free enterprise that leads to a circuslike atmosphere?

On this latter point, I am chilled to ponder a request by a public television station cameraman in Texas to film executions of prisoners. (As of January 15, 1978, 409 inmates sat on Death Row.)⁵⁰ Tony Garrett of KERA in Dallas, Texas, requested such permission. He also asked to film interviews with the condemned awaiting the ulti-

49. See *Kearns-Tribune v. Utah Board of Corrections*, U.S. District of Utah, January 13, 1977, 2 Media Law Reporter 1353 (March 8, 1977).

50. See "A Year After Gilmore Execution, 409 Await Death," *The New York Times*, January 15, 1978.

mate punishment of the state. On January 13, 1977, the same day that Utah State Board of Corrections rules were upheld by the U.S. District Court for Utah, Garrett got redress from the U.S. District Court in Dallas, Texas, against the refusal of the Texas Department of Correction to grant his requests. Judge William M. Taylor, Jr., ordered the state to allow him to film executions and interviews. The judge observed that if the subject offended any viewers they could switch off their sets!

I am sure that the language of his opinion pleases many First Amendment advocates.

If government officials can prevent the public from witnessing films of government proceedings solely because the government subjectively decides that it is not fit for public viewing, then news cameras might be barred from other public facilities where public officials are involved in illegal, immoral or other improper activities that might be offensive, shocking, distasteful or otherwise disturbing to viewers of television news.⁵¹

I agree with the principles and shudder at possible consequences deriving from the specifics involved. Hitler ordered the perpetrators of the July 1944 plot against him hung on meat hooks to die. The scenes of their agonized writhings were filmed by propaganda crews. Earlier the scenes of their mock trials were *features* that millions of Germans were subjected to.

On the other hand, I respect such groups as the Reporters Committee for Freedom of the Press, the Newspaper Guild, and the Radio-Television News Directors Association, all of which supported Garrett with a friend-of-the-court brief. Those organizations argued that the public debate on the capital punishment issue is furthered by such reportage. Television "conveys more of the content or reality of the experience than a written or spoken word can." They argued that the admission of print journalists when electronic media reporters were barred was discrimination contrary to the First Amendment. Later, on August 3, 1977, the State of Texas position—to deny television access—was upheld by the U.S. Court of Appeals for the Fifth Circuit. The circuit court quoted a 1974 conclusion of the Supreme Court regarding prisoner-interview cases. The "Constitution does not . . . require government to accord the press special access to information not shared by members of the press generally."⁵²

51. See *The News and the Law*, p. 8.

52. *Ibid.*, p. 9.

There are no easy answers or fixed solutions for ethical problems in any area of life. Honest, upright, and courageous defenders of the First Amendment are not made from one mold. Each observer wants to listen to his own drummer. On the matter of the last problem presented, how do you feel about the idea of televising executions for public television? Did I hear you say, "Yes, but—".